HC

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA

FILED

2008 JUL 15 AM 9:37

UNITED STATES OF AMERICA,	Magistrate Case No. '08 MJ 2150
Plaintiff,	SOUTHERN DISTRICT OF CALIFORNIA
	BY DEPUTY
v.	COMPLAINT FOR VIOLATION OF:
Ricardo HERRERA-Torres	Title 8, U.S.C., Section 1326; Deported Alien Found in the United States
Defendant.	

The undersigned complainant, being duly sworn, states:

On or about **July 13, 2008,** within the Southern District of California, defendant, **Ricardo HERRERA-Torres**, an alien who previously had been excluded, deported and removed from the United States to Mexico, was found in the United States without the Attorney General of the United States, or his designated successor, the Secretary of the Department of Homeland Security (Title 6, United States Code, Sections 202(3) and (4), and 557), having expressly consented to the defendant's reapplication for admission into the United States, in violation of Title 8, United States Code, Section 1326.

And the complainant further states that this complaint is based on the attached statement of facts, which is incorporated herein by reference.

SIGNATURE OF COMPLAINANT
Immigration Enforcement Agent
Immigration & Customs Enforcement

SWORN TO BEFORE ME AND SUBSCRIBED IN MY PRESENCE, THIS **15th** DAY OF **JULY 2008.**

UNITED STATES MAGISTRATE JUDGE
CATHY ANN BENCIVENGO
U.S. MAGISTRATE JUDGE

MWC

PROBABLE CAUSE STATEMENT

On July 13, 2008, a San Diego Deputy Sheriff arrested the defendant, Ricardo HERRERA-Torres, for violation of Penal Code 647(f), "Drunk in Public" and booked him into San Diego County Jail. An Immigration Enforcement Agent subsequently determined him to be a citizen and national of Mexico, and placed a Form I-247 (Immigration Detainer) pending his release from custody.

On July 14, 2008, the defendant was referred to the custody of the United States Immigration and Customs Enforcement (ICE) at San Diego, California. Immigration computer database record checks and a review of the defendant's Alien Registration File identified him as a national of Mexico having been previously deported from the United States to Mexico. The defendant was most recently ordered deported from the United States by an Immigration Judge on or about May 2, 2002, and removed to Mexico on May 2, 2002, via the San Ysidro Port of Entry. Record checks further indicate that the defendant has not applied to the Attorney General of the United States or the Secretary of the Department of Homeland Security for permission to re-enter the United States.

The Automated Biometric Fingerprint Identification System (IDENT) was utilized and compared the defendant's fingerprints to those contained in this database. The results confirmed his identity as Ricardo HERRERA-Torres, a citizen and national of Mexico. A photograph and a set of fingerprints contained within the official Alien Registration File were also reviewed and compared to the defendant, further confirming his identity.

The defendant was admonished as to his rights per Miranda. The defendant acknowledged those rights and elected to answer questions without counsel present. The defendant stated his name is Ricardo HERRERA-Torres, and he is a citizen of Mexico by birth in Zacatecas, Mexico. The defendant admitted he has not applied to obtain documents nor is he in possession of documents entitling him to enter or reside in the United States lawfully. He also admitted he did not apply for a waiver of removal or deportation to re-enter the United States.